

Regular Session, 2010

HOUSE BILL NO. 942

BY REPRESENTATIVES CARTER, HENRY BURNS, CARMODY, FOIL, GUILLORY,
HARDY, HENRY, LABRUZZO, LANDRY, LIGI, MONICA, PEARSON,
RICHARD, RICHMOND, SMILEY, JANE SMITH, AND THIBAUT

SCHOOLS/BOARDS: Provides relative to the employment of the local public school superintendent and the authority of the superintendent and the school board for personnel matters

1 AN ACT

2 To amend and reenact R.S. 17:54(B)(1)(a) and (b)(iii) and (iv) and (C) and 81(P), to enact
3 R.S. 17:81(T) and (U), and to repeal R.S. 17:54(B)(1)(b)(v), relative to the powers,
4 duties, functions, and responsibilities of city, parish, and other local public school
5 boards; to provide relative to prohibitions on the involvement of members of local
6 school boards in personnel matters; to provide for the responsibilities of local school
7 superintendents and school boards for personnel matters; to provide for the vote
8 required for hiring and removal of a local school superintendent; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:54(B)(1)(a) and (b)(iii) and (iv) and (C) and 81(P) are hereby
12 amended and reenacted and R.S. 17:81(T) and (U) are hereby enacted to read as follows:

13 §54. Officers of boards, election; superintendents, qualifications, appointment and
14 removal

15 * * *

16 B.(1)(a) Notwithstanding the provisions of R.S. 42:3, each city, parish, and
17 other local public school board shall elect a superintendent of schools, having such
18 qualifications as may be fixed by the State Board of Elementary and Secondary
19 Education, for a period not to exceed four years, which period, however, may extend
20 no longer than two years after the expiration of the term of office of the membership

1 of the board electing the superintendent. The election of a superintendent of schools
2 by a city, parish, or other local public school board shall require the favorable vote
3 of a majority of the entire membership of the school board. A superintendent of
4 schools shall not be required to be a qualified elector or a resident of the political
5 subdivision comprising the school system in which he is to serve as superintendent.
6 He shall be required to devote his entire time to the office of superintendent of
7 schools.

8 (b)

9 * * *

10 (iii) The superintendent shall be retained during the term of a contract; ~~unless~~
11 however, if the superintendent is found incompetent, unworthy, or inefficient or is
12 found to have failed to fulfill the terms and performance objectives of his contract
13 or to comply with school board policy, then the superintendent may be removed from
14 office as provided by Subsection C of this Section. ~~However, before~~ Before the
15 superintendent can be removed during the contract period, he shall have the right to
16 written charges and a fair hearing before the board after reasonable written notice.

17 (iv) ~~The~~ Subject to the approval of a majority of its entire membership, the
18 board shall negotiate and offer the superintendent a new contract at the expiration of
19 each existing contract unless a majority of the membership of the board votes at least
20 ninety days prior to the termination of the existing contract against offering a new
21 contract.

22 * * *

23 C.(1) A city, parish, or other local public school system superintendent ~~found~~
24 ~~incompetent, inefficient, or unworthy shall be removable for such cause~~ may be
25 removed from office for cause prior to the expiration of his contract by a majority
26 the concurring vote of at least two-thirds of the membership of the entire school
27 board at any regular meeting or at any special meeting after due notice.

28 (2) ~~The provisions of this Subsection shall not be applicable to any person~~
29 ~~initially employed as a superintendent of schools by a city, parish, or other local~~

~~public school board on or after July 1, 2005, or to any person who is a superintendent
of schools of a city, parish, or other local public school system on July 1, 2005, and
who is employed for a subsequent term as superintendent by the board.~~

4 * *

5 §81. General powers of city, parish, and other local public school boards

6 * * *

P.(1) No board member shall act in an individual capacity ~~without the~~
authorization of the school board to use the authority of his office or position as a
member of the school board, ~~directly or indirectly~~, in a manner intended to interfere
with, compel, or coerce any personnel decision, including the hiring, promotion,
discipline, demotion, transfer, discharge, or assignment of work to any school
employee. The superintendent, as the instructional leader of the district and its chief
executive officer, shall have primary responsibility for personnel actions in the
district. Each school board shall approve or disapprove employment of teachers and
all other certified personnel from recommendations made by the superintendent
regarding the hiring and placement of all personnel for which state certification is
required. The superintendent shall make recommendations to the board in open
public session at a meeting which has been properly noticed. Prior to the board
voting in open session on the superintendent's recommendations, the board will
provide opportunity for public comment.

(2) No board member shall use the authority of his office or position as a member of the school board, directly or indirectly, in a manner intended to interfere with, compel, or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization.

(3) If a board member successfully defends himself against any allegation
of a violation of this Subsection, the school board shall pay attorney fees and all
other legal fees associated with his defense.

28 * * *

1 T. Notwithstanding the provisions of this Section, a city, parish, and other
2 local public school board shall retain all authority given by law to such boards to
3 prescribe the duties and fix the salaries of and hold tenure hearings for all employees
4 of such boards, as applicable.

5 U.(1) Notwithstanding any provision of law to the contrary, no member of
6 a city, parish, or other local public school board shall be prohibited from requesting,
7 in writing or in open or executive session of the board, the status of any personnel
8 matter. The requirement that any such request be in writing or made during an open
9 or executive session of the board shall not apply when the board member has
10 knowledge of the possible or alleged commission of a crime by a school board
11 employee. Notwithstanding any provision of law to the contrary, no member of a
12 city, parish, or other local public school board shall be prohibited from providing
13 information on due process, grievance procedures, hearings, and tenure to any
14 constituent of the member upon the constituent's request. Notwithstanding any
15 provision of law to the contrary, no member of a city, parish, or other local public
16 school board shall be prohibited from seeking or providing information on other
17 issues regarding the operation of schools.

18 (2) The provisions of this Subsection are subject to other requirements of law
19 relative to the confidentiality of information contained in an employee's personnel
20 files.

21 Section 2. R.S. 17:54(B)(1)(b)(v) is hereby repealed in its entirety.

22 Section 3. This Act shall become effective January 1, 2011.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Carter

HB No. 942

Abstract: Provides relative to hiring and removal of a local school superintendent. Provides relative to responsibilities of the local school board and the superintendent for personnel matters.

Present law (R.S. 17:54(B) and (C)) provides for the election of local school superintendents by local public school boards and their employment pursuant to a written contract. Requires the school board to negotiate and offer the superintendent a new contract at the expiration of each existing contract unless a majority of the membership of the board votes against offering a new contract. Provides that any local superintendent found incompetent, inefficient, or unworthy shall be removable for such cause by a majority vote of the membership of the school board.

Proposed law retains present law except as follows:

- (1) Requires the favorable vote of a majority of the membership of the school board to elect a superintendent.
- (2) Specifies that negotiating and offering the superintendent a new contract shall be subject to the approval of a majority of board membership and retains present law providing that the vote of a majority of the board membership is required to decide not to offer the superintendent a new contract.
- (3) Provides that a local superintendent may be removed from office before his contract expires for cause, rather than for being found incompetent, inefficient, or unworthy. Requires 2/3 of the board membership to remove a superintendent.

Present law (R.S. 17:81(P)) specifies that no member of a local public school board shall act in an individual capacity without the authorization of the school board to use the authority of his office or position to compel any personnel decision regarding a school employee or to compel any school employee to make any decision concerning benefits, work assignment, or membership in any organization. Proposed law substantively retains present law but removes the "without authorization of the school board" stipulation on the prohibition. Provides that any action which interferes with such a decision is prohibited. Specifies that personnel decisions also include hiring, demotion, and transfer.

Proposed law provides that the superintendent has primary responsibility for personnel actions in the district and that the school board shall approve or disapprove employment of teachers and other certified personnel from hiring and placement recommendations made by the superintendent. Requires that the superintendent's recommendations be made in open public session at a meeting which has been properly noticed and requires opportunity for public comment on the recommendations. Provides that school boards retain all authority given to them to prescribe the duties and fix the salaries of and hold tenure hearings for their employees. Proposed law requires a school board to pay legal costs associated with the defense of certain school board members.

Proposed law provides that no member of a local public school board is prohibited from requesting, in writing or in open or executive session of the board, the status of any personnel matter. Specifies that the requirement that the request be in writing or made during an open or executive session of the board shall not apply when the board member has knowledge of the possible or alleged commission of a crime by a school board employee. Provides that school board members are not prohibited from providing information on due process, grievance procedures, hearings, and tenure to any constituent of the member upon the constituent's request or from seeking or providing information on other issues regarding the operation of schools. Proposed law further provides that proposed law is subject to present law relative to the confidentiality of information in an employee's personnel file.

Effective Jan. 1, 2011.

(Amends R.S. 17:54(B)(1)(a) and (b)(iii) and (iv) and (C) and 81(P); Adds R.S. 17:81(T) and (U); Repeals R.S. 17:54(B)(1)(b)(v))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Deleted the proposed law prohibition on school board members using the authority of their office to "interfere with" personnel decisions.
2. Permitted instead of required school boards to approve employment of teachers and all other certified personnel recommended by the superintendent.
3. Added requirement that a school board pay legal costs associated with the defense of certain school board members.

House Floor Amendments to the engrossed bill.

1. Relative to the prohibition on a school board member taking actions affecting a personnel decision, removed present law qualification that such acts are prohibited whether they are "direct or indirect". Further relative to such prohibited actions, added interfering with as a prohibited action.
2. Relative to the prohibition on a school board member taking actions affecting a school employee in his decision making, added interfering with as a prohibited action.
3. Relative to school board approval of the employment of teachers and other certified personnel recommended by the superintendent, required approval or disapproval of such recommendations rather than permitting approval.
4. Relative to proposed law dealing with requests for and release of information, added a statement that proposed law is subject to present law relative to the confidentiality of information in an employee's personnel file.